

EXHIBIT "1"

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

DEC 27 2005

THOMAS K. KAHN
CLERK

No. 05-15668-AA

EUFAULA DRUGS, INC.,
individually and on behalf of a class of
all persons or entities throughout the
United States who are similarly situated.

Plaintiff-Appellee,

versus

SCRIPSOLUTIONS,

Defendant-Appellant.

On Appeal from the United States District Court for the
Middle District of Alabama

BEFORE: ANDERSON, BIRCH and WILSON, Circuit Judges.

BY THE COURT:

Appellant asks this Court to review the District Court's determination that Appellee's Amended and Restated Complaint related back to the filing of the original Complaint on February 14, 2005, and thus, that the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1453(c), did not apply since that Act did not become effective until February 18, 2005 and is not retroactive. See Pub. Law 109-2, § 9,

119 Stat. 4 (2005). Based in part on that determination, the District Court granted Appellee's motion for remand back to state court.

28 U.S.C. § 1447(d) bars this Court's review of the District Court's Order unless the CAFA applies. See 28 U.S.C. § 1453(c)(1) ("Section 1447 shall apply to any removal of a case under this section, except that notwithstanding section 1447(d), a court of appeals may accept an appeal from an order of a district court granting or denying a motion to remand a class action to the State court from which it was removed . . .")

Upon review, the Court DENIES permission to appeal as requested by Appellant, as Appellant has not demonstrated that the District Court's findings of fact are clearly erroneous and Appellant has presented no meritorious claim of legal error in the District Court's application of the relation-back doctrine.

Consequently, the Court DENIES Appellant's request for review and DISMISSES this matter. All remaining motions are DENIED AS MOOT. The Clerk is directed to close this case.